

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARNELL HARRIS,	§
	§
Defendant Below-	§ No. 744, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 9407002626
Plaintiff Below-	§
Appellee.	§

Submitted: April 30, 2010

Decided: June 29, 2010

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 29th day of June 2010, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Darnell Harris, filed this appeal from the Superior Court's denial of his second motion for postconviction relief. Harris unsuccessfully moved the Superior Court, in the interests of justice, to reconsider a claim that was previously adjudicated. After review, we find no merit to Harris' argument on appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that a Superior Court jury convicted Harris in 1996 of second degree murder, conspiracy, and multiple related charges,

including three firearm offenses. This Court affirmed Harris' convictions and sentence on direct appeal.¹ Among other issues, Harris argued on appeal that the Superior Court had erred in failing to instruct the jury, pursuant to 11 Del. C. § 274, that it must assess Harris' guilt for the degree of the offense of homicide based on Harris' own culpable mental state. This Court held that, while the Superior Court erred in failing to instruct the jury in accordance with Section 274, that error was harmless because the State, in fact, had sought Harris' conviction for both second degree murder as well as the lesser included offense of manslaughter, which necessarily required the jury to assess Harris' guilt based on his own culpable mental state.²

(3) In 2000, Harris filed his first motion for postconviction relief. Among other issues, Harris again argued that his constitutional rights were violated by the Superior Court's jury instructions on accomplice liability. The Superior Court denied his motion. This Court affirmed that judgment on appeal.³ In February 2009, this Court issued a decision in the case of *Allen v. State*.⁴ In that decision, we held that when the State proceeds on a theory of accomplice liability for criminal offenses that are divided into degrees, the

¹ *Harris v. State*, 695 A.2d 34 (Del. 1997).

² *Id.* at 40-41.

³ *Harris v. State*, 2001 WL 433459 (Del. Apr. 25, 2001).

⁴ 970 A.2d 203 (Del. 2009).

jury is required to make an individualized determination regarding *both* a defendant's mental state *and* his culpability for any aggravating fact or circumstance.⁵ When Harris filed his second motion for postconviction relief in July 2009, he argued that the Court's holding in *Allen v. State* mandated reversal of this Court's decision on Harris' direct appeal, which held that the failure to give the jury instruction under § 274 was harmless error. The Superior Court denied Harris' second motion for postconviction relief.

(4) Before addressing the substantive merits of any postconviction claim on appeal, this Court must first consider the procedural requirements of Superior Court Criminal Rule 61.⁶ Rule 61(i)(1) provides that a motion for postconviction relief may not be filed more than one year after the judgment of conviction is final. Moreover, Rule 61(i)(4) bars reconsideration of any previously adjudicated claim *unless* reconsideration of the claim is warranted in the interest of justice. The "interest of justice" exception requires a defendant to "show that subsequent legal developments have revealed that the trial court lacked the authority to convict or punish him."⁷ In Harris' case, the

⁵ *Id.* at 213.

⁶ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

⁷ *Flamer v. State*, 585 A.2d 736, 746 (Del. 1990).

interest of justice exception requires Harris to establish that this Court's prior rulings in his case were "clearly in error."⁸

(5) We find no error in our prior rulings in Harris' case. As we noted in Harris' direct appeal, because of the manner in which the State prosecuted Harris, for second degree murder and the lesser included offense of manslaughter, the jury was required as a matter of law to return a verdict that was commensurate with Harris' own mental state.⁹ "Therefore, while the Superior Court's instructions to the Harris jury should have included the provisions in Section 274, the omission of that specific instruction does not constitute plain error."¹⁰ This holding is unaffected by our decision in *Allen v. State*. Accordingly, we find no error in the Superior Court's holding that Harris' second motion for postconviction relief was procedurally barred and that Harris had failed to overcome the procedural hurdles.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁸ *Weedon v. State*, 750 A.2d 521, 527 (Del. 2000).

⁹ *Harris v. State*, 695 A.2d at 41.

¹⁰ *Id.*